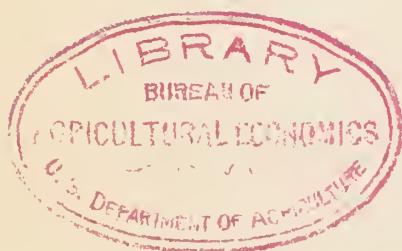


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U. S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
WASHINGTON, D. C.

PROPOSED
RULES AND REGULATIONS
FOR THE
ADMINISTRATION OF THE FEDERAL SEED ACT



October 1, 1939.

DEFINITIONS

Section 201.1 Meaning of words. Words in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

201.2 Terms defined. When used in these regulations the terms as defined in section 101 of the Act, unless modified in this section as provided in the Act, shall apply with equal force and effect. In addition, as used in these rules and regulations:

(a) The Act. The term "act" means the Federal Seed Act, approved August 9, 1939 (Public No. 354, 76th Congress)

(b) Person. The term "person" includes a partnership, corporation, company, society, association, receiver, or trustee.

(c) Secretary. The term "Secretary" means the Secretary or Acting Secretary of Agriculture of the United States.

(d) Hearing Clerk. The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

(e) Respondent. The term "respondent" means a person against whom a complaint is issued.

(f) Federal Register. The term "Federal Register" means the publication provided by the Act of July 26, 1935 (49 Stat. 500), and acts supplementary thereto and amendatory thereof.

(g) Agricultural Seeds. The term "agricultural seeds" means the grass, forage and field crop seeds listed under (1) and (2) of this paragraph.

(1) The following seeds which are included under agricultural seeds in the Act:

(Note: The seeds will be named in the final draft of the regulations.)

(2) The following additional seeds which are found by the Secretary of Agriculture to be used for seeding purposes in the United States.

(Note: Names to be added)

(h) Vegetable seeds. The term "Vegetable seeds" means the seeds of the following crops that are or may be grown in gardens or on truck farms

and are or may be generally known and sold under the name of vegetable seeds:

Artichoke	Cress, Upland	Parsnip
Asparagus	Cress, Water	Peas, garden
Beans, garden	Cucumber	Pepper
Beets	Dandelion	Pumpkin
Broccoli	Egg Plant	Radish
Brussels sprouts	Endive	Rhubarb
Cabbage	Fetticus-Corn salad	Rutabaga
Carrot	Kale	Salsify
Cauliflower	Kohlrabi	Sorrel
Celeriac	Leek	Spinach
Celery	Lettuce	Squash
Chicory	Muskmelon	Swiss Chard
Citron	Mustard	Tomato
Collards	Okra	Tomato, Husk
Corn, sweet	Onion	Turnip
	Parsley	Watermelon

(i) Regulations. The term "Regulations" means the rules and regulations promulgated by the Secretary of Agriculture and the joint rules and regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture under the Act.

(j) Joint regulations. The term "Joint regulations" means the joint rules and regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture.

(k) Complete record. The term "Complete record" means for each lot of Agricultural seed, continuous records of declarations received and issued, purchases and sales, cleaning and bulking operations, handling, storage, labeling, analyses, tests and examinations, seed samples, and any other records pertaining to such seed as it passes through the channels of commerce from the grower and the country shipper through the hands of the processor and the dealer to the ultimate consumer.

(l) Declaration. The term "Declaration" means a written statement of a grower, shipper, processor, dealer, or importer giving for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

(m) Declaration of origin. The term "Declaration of origin" means a declaration of a grower or country shipper in the United States stating that such declaration was issued in compliance with regulations under the Federal Seed Act, and giving for each lot of agricultural seed covered

(a) kind of seed, (b) lot number or other identification, (c) State and county where seed was grown, (d) quantity of seed, (e) date shipped or delivered, (f) to whom sold, shipped or delivered, and (g) the signature and address of the grower or country shipper issuing the declaration. If the declaration is issued by a grower and the identity of the person delivering the seed is unknown to the receiver, the auto tag number or other identification of delivering agency should be entered on the declaration. If a country shipper's declaration includes seed shipped or delivered to him by another country shipper, it shall give for each lot the other country shipper's lot number as included in the other country shipper's declaration of origin.

(n) Declaration of kind, variety or type. The term "Declaration of kind, variety, or type" means a declaration of a grower which shall give for each lot of seed (a) the name of the kind, variety or type stated in accordance with Sections 201.9 to 201.11, (b) lot number or other identification, (c) place where seed was grown, (d) quantity of seed, (e) date shipped or delivered, (f) to whom sold, shipped or delivered, and (g) the signature and address of the grower issuing the declaration.

(o) Label. The term "Label" means the information required under the Act and these regulations on a tag made of strong paper, cardboard or cloth attached securely to the container by sewing, sealing, or otherwise, except that the label for paper or cardboard containers holding 10 pounds or less of seed may consist of the information required in the label printed or written directly on the face of the container.

(p) Handling seed. The term "Handling seed" includes transportation, warehousing, cleaning, processing, merchandising, labeling, and any other operation connected with the physical handling of seed in the seed business.

(q) Grower. The term "Grower" means any person who has produced or is a seed-crop sharer in a particular lot of seed which is sold, offered for sale, transported or offered for transportation or is a regular producer of such seed.

(r) Country shipper. The term "Country shipper" means any person located in a producing area who purchases seed for shipment to seed dealers or to other country shippers for reshipment to seed dealers.

(s) Dealer. The term "Dealer" means any person who is engaged in a more or less general business in seeds, who cleans or processes seeds, or who sells, offers for sale, transports or delivers for transportation such seeds in interstate commerce.

(t) Seed processor or seed cleaning or processing establishment. The term "Seed processor or seed cleaning or processing establishment" means any person or establishment engaged in the business of cleaning or processing seeds for sowing purposes.

(u) Consumer. The term "Consumer" means any person who purchases or otherwise obtains seed for sowing but not for resale.

(v) Lot of seed. The term "Lot of seed" means a definite quantity of seed not to exceed a carlot, identified by a lot number.

(w) Purity. The term "Purity" means the name or names of the kind, type or variety and the percentage or percentages thereof; the percentage of other agricultural seed or crop seed; the percentage of weed seeds, including noxious weed seeds; the percentage of inert matter; and the names of the noxious weed seeds and rate of occurrence of each.

(x) Certified, registered or pedigreed seed. The term "Certified, registered, or pedigreed seed" means seed that has been certified or registered by an official State seed certification agency, or is regarded by such agency as pedigreed seed and conforms to the qualifications and requirements promulgated by said agency. A crop produced from such seed shall not be considered certified or registered seed unless such crop too has been certified or registered by an official State seed certification agency and conforms to the qualifications and requirements promulgated by said agency.

(y) Hybrid seed corn. The term "Hybrid seed corn" means seed of the first generation of a cross between unrelated strains and involving one, two, three, or four inbred lines or their combinations.

(z) Lawn seed mixture. The term "Lawn seed mixture" or "lawn grass seed mixture" means seed mixtures which contain not less than 5 percent each of 2 or more kinds of lawn seeds such as Kentucky bluegrass (*Poa Pratensis* L.), rough bluegrass (*Poa trivialis* L.), redtop (*Agrostis alba* L.), bentgrasses (*Agrostis* spp.), ryegrasses (*Lolium* spp.), red fescue (*Festuca rubra* L.), Chewings fescue (*Festuca rubra* var. *commutata* Guad.), Bermuda grass (*Cynodon dactylon* (L.) Pers.), carpet grass (*Axonopus compressus* (Swartz) Beauv.), white clover (*Trifolium repens* L.) and not more than 10 percent, singly or in combination, of timothy (*Phleum pratense* L.), Canada bluegrass (*Poa compressa* L.), orchard grass (*Dactylis glomerata* L.), fescues other than red and Chewings fescue, clovers other than white clover, or any other seeds not included in above list.

ADMINISTRATION

201.3 Chief of Service. The Chief or Acting Chief of the Agricultural Marketing Service shall perform for and under the supervision of the Secretary such duties as the Secretary may require in enforcing the provisions of the Act and of these regulations.

RECORDS

201.4 Maintenance and accessibility. All persons transporting or delivering for transportation agricultural seeds subject to the Act shall keep for a period of three years a complete record of origin, germination and purity of each lot of agricultural seed. The records maintained under this Act shall be accessible for inspection by the authorized agents of the Secretary in connection with the administration of the Act at any time during customary business hours.

201.5 Origin. A complete record of origin for any lot of seed of alfalfa, red clover, or field corn shall include (a) declarations of origin covering the lot or all components of such lot issued by growers or country shippers, (b) a representative sample or samples of each lot of seed covered by a declaration of origin, and (c) the maintenance of a complete record as described in Section 201.2 (k). Each country shipper shall retain a copy of each declaration which he issues and shall attach thereto a detailed record showing the names and addresses of growers or country shippers from whom the seed was purchased, the quantity of seed purchased from each, and date on which it was delivered to him.

201.6 Germination. A complete record of germination for any lot of seed shall include the records of all laboratory tests for germination and hard seed. Such tests may be made in the laboratory of the person who labels the seed or they may be furnished to him in a statement from another dealer or another seed laboratory, which statement shall clearly show that the percentages of germination and hard seed content are the results of tests. The record shall contain the kind of seed, lot number, date of test, percentage of germination and hard seeds, and such other information as may be necessary to show the method that was used.

201.7 Purity. A complete record of purity for any lot of seed shall include information as provided under (a) and (b) of this paragraph. (a) Records of analyses, tests, and examinations including statements of weed seeds, noxious weed seeds, inert matter, other agricultural seeds, and of any determinations of variety or type that are made by examination of the seed, or by growing tests in laboratory, greenhouse, or field, and a description of the methods used. (b) Records necessary to disclose the kind, variety or type, including a grower's declaration of variety, a representative sample of the seed received from the grower, and the maintenance of a complete record as described in Section 201.2 (k).

LABELING AGRICULTURAL SEEDS

201.8 The Label. The label shall contain the required information in any form that is clearly legible. When type is used, it shall be as large as or larger than ten point. The label may contain information in addition to that required by the Act, provided such information is neither misleading nor inconsistent with the requirements of the Act. The label or tag shall be attached securely to the container.

201.9 Kind. The name of each kind of seed present in excess of 5 percent shall be shown on every label but, except as hereinafter provided need not be accompanied by the word "kind." When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5 percent and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply only to seed of the kind named.

201.10 Variety. If the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety." The percentage in such case, which may be shown as "pure seed," shall apply only to seed of the variety named. If separate percentages for the kind and the variety are shown, the name of the kind and the name of the variety shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5 percent and are named on the label, the name of each variety shall be accompanied by the percentage of each. Names of varieties given shall be consistent with the provisions of Sections 201.66 to 201.74.

201.11 Type. When type is designated, such designation may be associated with the name of the kind but shall in all cases be clearly associated with the word "type". The percentage, which may be shown as "pure seed," shall apply only to the type designated. If separate percentages for the kind and the type are shown, such percentages shall be clearly associated with the name of the kind and the name of the type.

If the type designation does not include a variety name, it shall include a name descriptive of a group of varieties of similar character and the pure seed shall be at least 90 percent of one or more varieties all of which conform to the type designation.

If the name of a variety is used as a part of the type designation, the seed shall be of the variety and may contain: (1) an admixture of seed of other indistinguishable varieties of the same kind and of similar character; or, (2) an admixture of indistinguishable seeds having genetic characteristics dissimilar to the variety named by reason of cross-fertilization with other varieties. In either case, at least 90 percent of the pure seed shall be of the variety named or upon growth shall produce plants having characteristics similar to the variety named.

201.12 Mixtures. Seed consisting of more than one variety in excess of 5 percent and labeled as to variety and seed consisting of more than one kind in excess of 5 percent shall be clearly labeled with the word "mixture".

201.13 Lot. The lot number or other identification mark shall be shown in the label and on the container and shall be the same as that used in records or included in the records pertaining to the seed. Every portion or bag of a lot of seed shall be identical as to origin and identical within the tolerance as permitted by these regulations as to purity, germination, and hard seed content.

201.14 Origin. Alfalfa, red clover, and field corn, if present singly or in a proportion greater than 5 percent of the whole, shall be labeled to show for each: (1) the origin, if known; or, (2) if the origin is not known, the statement, "origin unknown."

Whenever such seed originates in more than one State, the name of each State and the approximate percentage of seed originating in each State shall be given in the order of its predominance, except that, if the seed originates only in two adjacent States and the lot contains not less than 35 percent of seed from each State, the percentage need not be shown.

Proper precautions to insure that the origin of seed is known shall include the maintaining of a record as described in Section 201.5. The examination of the seed and any pertinent facts may be taken into consideration in determining whether proper precautions have been taken to insure the origin to be that which is shown.

201.15 Weed Seeds. The percentage of weed seeds shall include seeds of plants considered weeds in the State into which the seed is offered for transportation or transported and shall include noxious weed seeds.

201.16 Noxious weed seeds. Labeling as to noxious weed seeds shall conform to the law and regulations pertaining to noxious weed seeds of the State into which the seed is offered for transportation or is transported. Noxious weed seeds in the District of Columbia are: quackgrass, Canada thistle, bindweed, Bermuda grass and wild onion bulblets.

201.17 Other agricultural seeds (crop seeds). Agricultural seeds other than those included in the percentage or percentages of kind, variety, or type may be expressed as "crop seeds" or "other crop seeds", but the percentage shall include collectively all kinds, varieties, or types not named upon the label.

201.18 Inert matter. The label shall show the percentage by weight of inert matter.

201.19 Germination. The label shall show the percentage of germination as determined by test for each agricultural seed present in excess of 5 percent.

201.20 Hard seed. The label shall show the percentage of hard seed, if any is present, and the percentage of hard seed shall not be included as part of the germination percentage.

201.21 Date of test. The label shall show the month and year in which the germination test was completed. For all agricultural seeds except lawn seed mixtures in containers of 10 pounds or less, no more than five calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce.

For lawn seed mixtures in containers of 10 pounds or less, no more than nine calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce.

201.22 Name of shipper or consignee. The full name and address of either the shipper or consignee shall appear upon the label. If the name and address of the shipper are not shown upon the label, a code designation identifying the shipper shall be shown.

201.23 Code designation. The code used in lieu of the full name and address of the person who transports or delivers for transportation in interstate commerce shall first be approved by the Chief of the Agricultural Marketing Service. When used, the code designation shall appear on the label in a clear and legible manner immediately preceding the lot number or identification mark and when typed shall be no smaller than 10 point.

LABELING VEGETABLE SEEDS

201.24 The label. Vegetable seed in packets and in larger containers shall be labeled with the required information in any form that is clearly legible. When type is used, it shall be as large as or larger than 8 point. The label may contain information in addition to that required by the Act, provided such information is neither misleading nor inconsistent with the requirements of the Act. Any tag used shall be securely attached to the container.

201.25 Kind and variety. The label or the face of the container shall bear the name of the kind and variety of the seed. The variety name shall be consistent with the provisions of Sections 201.75 to 201.78.

201.26 Name of shipper and consignee. The full name and address of either the shipper, or consignee, shall appear upon the label. If the name and address of the shipper are not shown, a code designation identifying the shipper shall be shown.

201.27 Code designation. The code used in lieu of full name and address of the person who transports or delivers for transportation in interstate commerce shall first be approved by the Chief of the Agricultural Marketing Service. When used, the code designation shall appear on the label in a clear and legible manner and when type is used it shall be no smaller than 8 point.

201.28 Germination above standard. Vegetable seed, which at time of transportation or delivery for transportation in interstate commerce has a germination equal to or better than the standard set forth in Section 201.30, need not bear a statement showing the percentage of germination.

201.29 Germination below standard. Vegetable seeds which at time of transportation, or delivery for transportation in interstate commerce, have a germination percentage less than the standard set forth in Section 201.30 shall have the words, "Below Standard," clearly shown in a conspicuous place on the label or on the face of the container, in type as large as or larger than 10 point. The seed shall also be labeled to show the percentage of germination determined by test and the percentage of hard seed. The percentage of hard seed shall not be included in the percentage of germination. No more than five calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce.

201.30 Germination standards for vegetable seeds in interstate commerce.

Artichoke -----	60%	Leek -----	60%
Asparagus -----	70% (incl. hard seeds)	Lettuce -----	80%
Beans (except Lima) ---	80%	Muskmelon -----	75%
Beans, Lima -----	70%	Mustard -----	75%
Beets, incl. Swiss		Okra -----	50%
Chard -----	65%	Onion -----	70%
Broccoli -----	75%	Parsley -----	60%
Brussels Sprouts -----	70%	Parsnip -----	60%
Cabbage -----	75%	Peas -----	80%
Carrot -----	55%	Peppers -----	55%
Cauliflower -----	75%	Pumpkin -----	75%
Celery & Celeriac -----	55%	Radish -----	75%
Chicory -----	65%	Rhubarb -----	60%
Citron -----	65%	Rutabaga -----	75%
Collards -----	80%	Salsify -----	75%
Corn -----	75%	Sorrel -----	60%
Cress, Upland -----	40%	Spinach -----	*60%
Cress, Water -----	25%	*(except New Zealand)	
Cucumber -----	80%	Spinach,	
Dandelion -----	45%	New Zealand -----	40%
Egg Plant -----	60%	Squash -----	75%
Endive -----	70%	Swiss Chard -----	65%
Fetticus		Tomato -----	75%
(corn salad) -----	70%	Tomato, Husk -----	50%
Kale -----	75%	Turnip -----	80%
Kohlrabi -----	75%	Watermelon -----	70%

LABELING IN GENERAL

201.31 Screenings. Screenings shipped in interstate commerce, if in containers, shall be labeled in a legible manner with letters not smaller than 18 point type and, if in bulk, shall be invoiced with the words, "Screenings for processing - not for seeding."

201.32 Farmer exemptions. Seeds transported, or offered for transportation in interstate commerce, directly to a consumer by the farmer producer are exempt from the labeling requirements, provided the seed is in compliance with the law of the State into which the seed is transported or offered for transportation. If the law of the State into which the seed is transported or offered for transportation requires that such seed be labeled, the statements contained on the label shall be in conformity with the State law.

201.33 Uncleaned seed. Uncleaned seed subject to the Act, transported to a seed-cleaning or processing establishment for cleaning or processing, if in bulk shall be invoiced or, if in bags shall be labeled, with the words, "Uncleaned seed for processing." If such seed be field corn, alfalfa, or red clover, the invoice or the label shall bear a statement of its origin or, it shall bear the words, "Origin unknown." If the seed is to be labeled as to variety after processing and such seed is indistinguishable from seed of another variety or varieties, the invoice if in bulk, or the label if in containers, shall bear a statement as to the variety of such seed.

201.34 Kind, variety or type of indistinguishable seeds. Proper precautions to insure that the kind or variety or type of indistinguishable agricultural or vegetable seeds is properly stated shall include the obtaining of a grower's declaration as to the kind or variety or type shown on the label, the maintaining of a sample of a lot of seed as received from the grower, and the maintaining of the other records as described in Section 201.7. The examination of the seed and any pertinent facts may be taken into consideration in determining whether proper precautions have been taken to insure the origin to be that which is shown.

201.35 Disclaimer. The labeling shall not contain any statements which directly or indirectly deny or modify the truthfulness of any required statement.

201.36 Blank spaces. Blank spaces on the label shall be deemed to imply the word "None," when such interpretation is reasonable.

201.37 The words "free" and "none." The words "free" and "none" shall be construed to mean that none were found in a test complying with the methods set forth in Sections 201.46 to 201.53.

INSPECTION

201.38 State cooperation. When authorized by the Agricultural Marketing Service, qualified State officials, for the purposes of the Act, may draw samples of, secure information and records pertaining to, and otherwise inspect seeds and screenings subject to the Act.

201.39 Importations. Prior to release into the commerce of the United States, imported seed and screenings will be inspected only as provided in Sections 201.207 to 201.209.

METHODS OF SAMPLING IN THE ADMINISTRATION OF THE ACT

201.40 General procedure. (a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to reach all portions of the bag should be used.

(c) Non free-flowing seed, such as grass seed, uncleaned seed or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.

(d) The portions shall be combined into a composite sample or samples.

(e) As the seed or screenings are sampled, each portion shall be examined, and, whenever there is evidence of lack of uniformity, additional samples shall be taken to show such lack of uniformity.

201.41 Bulk. Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled.

201.42 Bags. (a) In quantities of five bags or less each bag shall be sampled.

(b) In quantities of more than five bags, every fifth bag but not less than five bags shall be sampled.

(c) In quantities of more than 100 bags, a separate composite sample shall be taken for each 100 bags or portion thereof.

(d) Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved.

201.43 Packets. In sampling seed in packets, entire unopened packets shall be taken.

201.44 Size of sample. The following are minimum weights of samples of seed to be submitted for analysis, test, or examination:

(a) Two ounces of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these.

(b) Five ounces of red or crimson clover, alfalfa, ryegrasses, bromegrasses, millet, flax, rape, or seeds of similar size.

(c) Two pounds of cereals, vetches, or seeds of similar or larger size.

(d) Two quarts of screenings.

201.45 Forwarding samples. Before being forwarded for analysis, test, or examination, the container of samples shall be properly sealed and identified by the person drawing the samples in such manner as may be prescribed by the Chief of the Agricultural Marketing Service.

METHODS OF MAKING PURITY ANALYSIS IN THE ADMINISTRATION OF THE ACT

201.46 Obtaining the working sample. The working sample on which the actual analysis is made shall be taken from the submitted sample in such a manner that it will be representative.

With free-flowing seeds, some form of efficient mechanical divider shall be used. With non-free-flowing seed of a character that a mechanical divider cannot be used, the sample shall be mixed and placed in a pile and divided into halves. The sample shall be repeatedly divided down to the weight to be used for the working sample, and weighed out in grams to the third decimal place.

201.47 Weight of working sample. For the detailed purity analysis, except the determination of noxious weed seeds, the working sample shall be at least the following weight for the different groups of seeds:

- (1) One gram: Agrostis spp.; Poa spp.; Rhodes grass; Bermuda grass.
- (2) Two grams: Timothy; orchard grass; fescues (excepting meadow fescue); alsike and white clover; carrot; reed canary grass; Dallis grass.
- (3) Five grams: Ryegrass (Lolium); meadow fescue; foxtail millet; alfalfa; red clover; sweetclovers; lespedezas.
- (4) Ten grams: Smooth brome; crimson clover; Brassica spp.; flax; Agropyron spp.
- (5) Twenty-five grams: Proso millet; Sudan grass.
- (6) Fifty grams: Sorghums; buckwheat; beet.
- (7) One hundred grams: Vetches; cereals; sunflower.
- (8) Five hundred grams: Corn; beans; peas; cowpeas; soybeans.

For any kind of seed not listed, use a weight that will give approximately 3,000 seeds. See Table 1.

Table 1. Number of crop seeds per unit weight

Kind of seed	Minimum weight for purity analyses (grams)	Approximate number of seeds per gram	Approximate number of seeds per ounce
Alfalfa.....	5	500	14,170
Barley.....	100	30	850
Beet.....	50	54	1,530
Bentgrass.....	1	18,000	510,300
Bluegrass:			
Canada.....	1	5,500	155,920
Kentucky.....	1	4,800	136,000
Rough.....	1	5,600	158,760
Brome, smooth.....	10	300	8,500
Buckwheat.....	50	45	1,275
Carrot.....	2	900	25,510
Clover:			
Alsike.....	2	1,500	42,520
Crimson.....	10	330	9,350
Red.....	5	600	17,010
White.....	2	1,500	42,520
Dogtail, crested.....	2	1,900	53,860
Fescues, fine-leaved.....	2	1,200	34,000
Fescue:			
Hair.....	1	3,200	90,720
Meadow.....	5	500	14,170
Flax.....	10	300	8,500
Foxtail, meadow.....	2	1,200	34,000
Grass:			
Bermuda.....	1	3,940	111,700
Orchard.....	2	1,150	32,600
Reed, canary.....	2	1,200	34,000
Sudan.....	25	120	3,400
Velvet.....	2	2,500	70,870
Lespedeza:			
Chinese, hulled.....	5	820	23,250
Common, unhulled.....	5	750	21,260
Korean, unhulled.....	5	525	14,880
Millet:			
Foxtail.....	5	470	13,320
Proso.....	25	180	5,100
Oatgrass, tall.....	10	330	9,350
Oats.....	100	28	790
Rape, winter.....	10	230	6,520
Redtop.....	1	11,000	311,850
Rye.....	100	40	1,130
Ryegrass:			
Italian.....	5	500	14,170
Perennial.....	5	500	14,170
Short-seeded perennial:	5	700	19,840
Sorghum:			
Amber.....	50	55	1,560
Kafir.....	50	50	1,420

Table 1. Number of crop seeds per unit weight (cont'd.)

Kind of seed	Minimum weight for purity analyses (grams)	Approximate number of seeds per gram	Approximate number of seeds per ounce
Sweetclover.....	5	570	16,160
Timothy.....	2	2,500	70,870
Turnip.....	10	340	9,640
Vernal grass, sweet.....	2	1,600	45,360
Vetch:			
Common.....	100	19	538
Hairy.....	100	36	1,000
Wheat.....	100	25	708
Wheatgrass:			
Crested.....	10	425	12,050
Slender.....	10	340	9,640

201.48 Separation. The working sample shall be weighed and then separated into four parts: (1) Kind, variety or type to be considered pure seed; (2) other crop seed; (3) weed seeds; (4) inert matter.

These four component parts shall each be weighed in grams to at least the third decimal place, and the percentage by weight of each part (based on the sum of the weights of the component parts and not on the original weight) shall be determined. In the case of other crop seed and weed seed, the seeds of each species shall be separated where possible and the number or weight of each kind determined. The separation of the seed of the kind, variety or type considered pure seed must be on such a basis that the separation can be made definitely by seed characteristics, except that when the sample contains two or more similar kinds of seeds the separation in the entire working sample would be very difficult, it is permissible to separate and weigh the similar seeds as a group. From this mixture at least 400 seeds are to be counted indiscriminately and the separation made on this portion. The proportion of each kind is then determined by weight, and from this the percentage in the entire sample is calculated.

201.49 Kind, variety or type considered pure seed. The pure seed shall include all seeds whether shriveled, cracked or otherwise injured; pieces of broken seeds larger than one-half the original size; seeds of legumes and crucifers with the seed coats intact; and chalcids fly or nematode infested red clover and alfalfa, provided the seeds are externally intact.

201.50 Other crop seed. Seeds of plants locally grown as crops, other than the kind, variety or type included in the pure seed, when present singly in a proportion not in excess of 5% of the whole, shall be considered other crop seeds, unless designated as weed seeds.

201.51 Weed seed. Seeds of plants recognized by laws or official regulations or by general usage shall be considered weed seeds; Provided, That undeveloped and badly injured weed seeds (including noxious weed seeds) which, upon visual examination, are clearly incapable of growth shall be considered inert matter and not weed seed. When a weed seed is present that is exceedingly small (e.g., Juncus tenuis) and would not add more than 0.1 percent to the percentage of weed seed, it need not be separated out with the weed seeds, but may

be included with the inert matter. However, the presence of the weed seed shall be recorded.

201.52 Inert matter. Broken seeds when one-half or less; seeds of legumes or crucifers with the seed coats removed; undeveloped and badly injured weed seeds such as sterile dodder which, upon visual examination, are clearly incapable of growth; empty glumes of grasses; attached sterile glumes of grasses (which must be removed from the fertile glumes except in Rhodes grass); dirt, stones, chaff, fungus bodies (such as ergot and other sclerotia and smut balls), and any other matter not seeds.

201.53 Noxious weed seeds. The determination of the number of seeds of individual noxious weeds present per unit weight shall be made on at least the following minimum quantities for the various classes of seeds listed in Sec. 201.47. (Weight of Working Sample): (1) 25 grams; (2), (3), and (4) 50 grams; (5) 150 grams; (6) 300 grams; (7) and (8) 500 grams.

METHODS OF MAKING GERMINATION TESTS IN THE ADMINISTRATION OF THE ACT

201.54 Sources of seeds for germination. Seeds for germination shall be taken from the separation of the kind, variety or type considered pure seed and shall be counted without discrimination as to size or appearance.

201.55 Number of seeds for germination. At least 400 seeds from a sample shall be tested for germination. These seeds shall be tested in separate tests of 100 seeds or less.

201.56 Retests. Retests shall be made if there is a difference, between any two of the four separate hundreds tested, of 10% when the average of the four is 80% or above, and of 15% when the average is below 80%, otherwise the average of the tests shall be considered the result of the test.

201.57 Interpretation. A seed will be considered to have germinated when it has developed into a normal seedling which would continue its development in soil under favorable conditions. Broken seedlings and weak, malformed, and obviously abnormal seedlings shall not be considered to have germinated.

201.58 Hard seeds. Seeds which remain hard at the end of the prescribed test because they have not absorbed water, due to an impermeable seed coat, are to be counted as "hard seed".

201.59 Method of testing for germination. (Note: methods to be added)

TOLERANCES

201.60 Application. The following tolerances shall be recognized between the percentages or rates of occurrence found by analysis, test or examination in the administration of the Act and percentages or rates of occurrence required or stated as required by the Act. Unless otherwise provided, the tolerances shall be determined by applying the formulae to the percentages or rates of occurrence found in the administration of the Act. In case numerous or extensive analyses, tests or examinations are made to determine the true percentage, the tolerance may be determined statistically from the results on the basis of a degree of certainty of $2\frac{1}{2}$ percent ($P = .025$).

201.61 Purity percentages. In the determination of the tolerance for the percentage of the distinguishable kind, type or variety (pure seed), weed seeds, other crop seeds, and inert matter, the sample shall be first considered as made up of two parts: (a) the percentage of the component (pure seed, weed seed, crop seed or inert matter as the case may be) being considered, and (b) the difference between that percentage and 100. The number represented by (a) is then multiplied by the number represented by (b) and the product is divided by 100. The resulting number is then multiplied by .2 (2/10) and the resulting product added to .2 or .6 as indicated in the following formulae:

Pure seed tolerance = $0.6 + (.2 \times \frac{a \times b}{100})$. Weed seeds, other crop seeds,
and inert matter tolerance = $0.2 + (.2 \times \frac{a \times b}{100})$.

201.62 Germination. The following tolerances are applicable to the sum of the germination plus the hard seed and also to the percentage of hard seed:

<u>Found by test</u>	<u>Tolerance</u>
96 or over	5
90 or over but less than 96	6
80 or over but less than 90	7
70 or over but less than 80	8
60 or over but less than 70	9
Less than 60	10

201.63 Pure live seed. The tolerance for pure live seed shall be determined by applying the respective tolerances to the germination plus the hard seed and the pure seed.

201.64 Noxious weed seeds in interstate commerce. The following tolerances for rates of occurrence of noxious weed seeds shall be recognized and shall be applied to the number of noxious weed seeds found by analysis in the quantity of seed specified for noxious weed seed determinations in Section 201.53. Representations showing the rate of occurrence indicated in Columns 2 and 4 will be considered within the tolerance if no more than the accompanying number in Columns 1 and 3 are found by analysis in the administration of the Act. For rates of occurrence higher than those shown in the table and in case of additional or more extensive analyses, a tolerance based on a degree of certainty of 5% ($P = .05$) will be recognized.

Number found by analysis	:	The following are within the tolerance	:	Number found by analysis	:	The following are within the tolerance
2	:	0	:	18	:	11
4	:	1	:	20	:	12
6	:	2	:	21	:	13
8	:	3	:	22	:	14
9	:	4	:	23	:	15
11	:	5	:	24	:	16
12	:	6	:	25	:	17
13	:	7	:	27	:	18
14	:	8	:	28	:	19
16	:	9	:	29	:	20
17	:	10	:	30	:	21
	:		:		:	

201.65 Noxious weed seed in imported seed. The tolerance applicable to analyses of imported seeds for noxious weed seeds shall be 6/10 of the permissible number of seeds.

EXAMINATIONS

201.66 Indistinguishable seed. When the identification of the kind, variety or type of seed is not possible by seed characteristics, identifications may be based upon the characteristics of seedlings, growing plants or mature plants, for example:

201.67 Ryegrass (*Lolium perenne* and *L. multiflorum*). The rootlets of 10 day old seedlings of *Lolium multiflorum* grown on filter paper fluoresce in ultra-violet light. Not more than 10% of the seedlings of perennial ryegrass (*L. perenne*) show fluorescence.

201.68 Rye. The winter varieties adapted to northern climates assume a prostrate habit of growth during winter months. The less hardy winter varieties adapted to southern climates such as Abruzzi assume an upright habit of growth during winter months.

201.69 Soybeans. Characteristics are set forth in U. S. D. A. Farmers Bulletin No. 1520, "Soybeans, Culture and Varieties." It has also been shown that when grown in soil in daylight seedlings of Ebony and Ottotan, Laredo and Norredo, Macoupin and Mammoth Yellow are distinguishable when from 7 to 21 days old, on the basis of thickness and color of hypocotyl, shape and venation of cotyledons and pubescence.

201.70 Sweetclover. The presence of 1% of mottled seed indicates the presence of 5% of yellow sweetclover.

201.71 Red clover. Plants of single cut and double cut are distinguished by vegetative growth and time of flowering when subjected to continuous light. The American and European forms are distinguished by hairiness in the seedling stage, the American forms being rough and the European forms being smooth.

201.72 Wheat. Characteristics are set forth in U. S. D. A. Technical Bulletin No. 459, "Classification of Wheat Varieties grown in the United States."

201.73 Sorghum. Characteristics are set forth in U. S. D. A. Technical Bulletin No. 506, "Identification, History and Distribution of Common Sorghum Varieties."

201.74 Oats. (Note: to be added)

201.75 Tomatoes. Characteristics are set forth in U. S. D. A. Miscellaneous Publication No. 160, "Descriptions of Types of Principal American Varieties of Tomatoes."

201.76 Cabbage. Characteristics are set forth in U. S. D. A. Miscellaneous Publication No. 169, "Descriptions of Types of Principal American Varieties of Cabbage."

201.77 Peas. Characteristics are set forth in U. S. D. A. Miscellaneous Publication No. 170, "Descriptions of Types of Principal American Varieties of Peas."

201.78 Spinach. Characteristics are set forth in U. S. D. A. Miscellaneous Publication No. 316, "Descriptions of Types of Principal American Varieties of Spinach."

201.79 Origin. The origin of seed may be determined from the presence of incidental weed seeds, foreign matter or by other means.

IMPORTED SEED

201.80 Exemptions. For the purposes of Sec. 302(c) (2) of the Act, seeds of the following kinds are found to be imported in a substantial proportion for other than seeding purposes and are exempted from the import provisions (Title III) of the Act when imported for other than seeding purposes, provided, they are accompanied by declarations when and as required under Sec. 201.223:

Wheat	Peas (except Austrian Winter peas)
Flax	Rice
Oats	Buckwheat
Rye	Corn
Barley	Proso
Beans	Sorghum
Cowpeas	Millet
	Winter rape

201.81 Pure live seed. For the purposes of Sec. 304(c) of the Act, the following percentages for the kinds stated will be construed to meet the import requirements of the Act as to pure live seed:

Bluegrass (Kentucky, annual, wood, Canada)	65%
Rhodes grass	35%
Dallis grass	35%
Beets	70%
Carrots	55%
Celeriac	60%
Celery	60%
Chicory	70%
Eggplant	65%
Leek	65%
Okra	60%
Parsley.....	65%
Parsnip	65%
Pepper	65%
Rhubarb	65%
Sorrell	65%
Spinach, New Zealand	50%

201.82 Unadapted alfalfa and red clover. Alfalfa seed and red clover seed of the following indicated origins having been determined to be not adapted for general agricultural use in the United States and 10% or more of the seeds in each container of such alfalfa or red clover seed, or any seed containing 10% or more of such alfalfa or red clover seed, shall be stained a red color.

(a) Seed of alfalfa grown in the region commonly referred to as Turkestan and including both Chinese Turkestan and the area formerly known as Russian Turkestan shall be stained purple-red. For the purpose of this regulation the area formerly known as Russian Turkestan will be considered that region in Central Asia bounded by the Caspian Sea on the west, by Iran and Afghanistan on the south, by Chinese Turkestan on the east, and by the 45th parallel N. L. on the north. (Effective on and after September 25, 1926, and as amended and effective on and after March 27, 1933.)

(b) Seed of alfalfa grown in Africa shall be stained red. (Effective on and after September 25, 1926.)

(c) Seed of alfalfa grown in South America shall be stained orange-red. (Effective on and after July 2, 1927.)

(d) Seed of red clover grown in Italy shall be stained red. (Effective on and after September 2, 1926.)

201.83 Staining: Any imported seed containing 10% or more, singly or collectively, of the seeds of alfalfa and red clover shall be stained as follows:

(a) 10% of the seed in each container of alfalfa or red clover which has been determined to be not adapted for general agricultural use in the United States shall be stained red.

(b) 1% of the seed in each container of alfalfa or red clover of Canadian origin shall be stained violet.

(c) 5% of the seed in each container of alfalfa or red clover of an origin other than indicated under (a) and (b) of this Section shall be stained green.

(d) 10% of the seed in each container of alfalfa or red clover shall be stained red (1) if the origin of the alfalfa or red clover is unestablished, (2) if the origins of the alfalfa or red clover are such as to require different colors, and (3) if the alfalfa or red clover of foreign origin has been commingled with seed of the same kind grown in the United States.

201.84 Method of staining. The stain shall be in the form of a water solution of such concentration as to stain the seeds distinctly with the colors prescribed. The designated portion of the seed to be stained shall be completely and distinctly stained the prescribed color and blended with the unstained seed in accordance with instructions that may be issued from time to time by the Chief of the Agricultural Marketing Service.

201.85 Supervision of staining. Seed required to be stained and found not to have been stained prior to arrival in the United States shall not be permitted entry unless it has been stained under the supervision of an employee or authorized agent of the United States Department of Agriculture. The staining in such case shall be at the expense of the importer, who shall also reimburse the Government for the expenses of travel required to perform such supervision.

201.86 Weeds. Seeds or bulblets of the following plants shall be considered weeds when in imported seed:

Abutilon theophrasti (A. avicennae) -----	velvet leaf
Achillea -----	yarrow
Agropyron repens -----	quack grass
Agrostemma githago (Lychnis githago) -----	corn cockle
Alhagi camelorum -----	camelthorn
Allium vineale -----	wild onion
Alsine (Stellaria) -----	chickweed
Amaranthus -----	amaranth
Ambrosia -----	ragweed
Anagallis arvensis -----	pimpernel
Anthemis -----	mayweed, camomile
Anthyllis vulneraria -----	kidney vetch
Apargia autumnalis (Leontodon autumnale) -----	fall dandelion
Atriplex -----	saltbush
Avena fatua -----	} wild oats
Avena fatua glabrescens -----	
Axyris amaranthoides -----	-----
Berteroa incana (Alyssum incanum) -----	hoary alyssum
Brassica -----	mustard
Except B. napus (winter rape)	
Bromus mollis -----	soft chess
Bromus racemosus -----	-----
Bromus secalinus -----	chess
Bromus tectorum -----	downy brome grass or military grass
Bursa bursa-pastoris (Capsella bursa-pastoris) ---	shepherd's-purse
Camelina -----	false flax
Campe (Barbarea) -----	wintercress
Carex -----	sedge
Centaurea -----	star thistle; cornflower (Russian knapweed)
Cerastium -----	mouse-ear chickweed
Chaetochloa lutescens (Setaria glauca) -----	yellow foxtail.
Chaetochloa viridis (Setaria viridis) -----	green foxtail
Cheirinia (Erysium) -----	blistercress
Chenopodium -----	lamb's-quarters
Chrysanthemum leucanthemum -----	oxeye daisy
Cichorium intybus -----	chicory
Cirsium (Carduus) -----	thistle

Cnicus benedictus	-----	blessed thistle
Conringia orientalis	-----	hare's-ear mustard
Convolvulus	-----	bindweed
Cuscuta	-----	dodder
Cyperus rotundus	-----	nutgrass
Datura	-----	jimson weed
Daucus carota	-----	wild carrot
Echinochloa crusgalli (Panicum crus-galli)	--	barnyard grass
Echium vulgare	-----	blueweed
Eragrostis	-----	stink grass, love grass
Erodium cicutarium	-----	alfilaria
Eruca sativa	-----	salad rocket
Erysimum (Sisymbrium) officinale	-----	hedge mustard
Euphorbia esula	-----	leafy spruce
Festuca myuros	-----	rat's-tail fescue
Galinsoga parviflora	-----	galinsoga
Galium	-----	bedstraw
Geranium	-----	crane's-bill
Grindelia squarrosa	-----	gum weed
Hedysarum coronarium	-----	sulla
Helianthus	-----	sunflower
Hibiscus trionum	-----	flower of an hour
Hieracium	-----	hawkweed
Holcus halepensis (Sorghum halepense)	-----	Johnson grass
Hymenophyssa pubescense	-----	white top
Hypochaeris radicata	-----	cats-ear
Ipomoea	-----	morning glory
Iva xanthefolia	-----	marsh elder
Iva axillaris	-----	poverty weed
Juncus	-----	rush
Lappula echinata (Echinospermum lappula)	---) stickseed
Lappula texana (Echinospermum redowskii)	---	
Leontodon taraxacum (Taraxacum officinale)	--	dandelion
Leonurus cardiaca	-----	common motherwort
Lepidium	-----	peppergrass
Linaria	-----	toadflax
Lithospermum arvense	-----	corn gromwell
Lolium temulentum	-----	darnel
Lotus	-----	trefoil
Lychnis	-----	campion
Madia sativa	-----	tarweed
Matricaria inodora	-----	false camomile
Medicago lupulina	-----	black, medick, yellow trefoil
Molinia coerulea	-----	-----
Nepeta cataria	-----	catnip
Neslia paniculata	-----	ball mustard
Norta (sisymbrium)	-----	tumble mustard
Notholcus (Holcus) lanatus	-----	velvet grass
Oenothera biennis	-----	evening primrose
Panicum	-----	-----

Except P. miliaceum

Phalaris -----	-----
Except P. canariensis	
Picris -----	oxtongue
Plantago -----	buckhorn; plantain
Polygonum -----	knotweed; cornbind; smartweed; lady's- thumb
Portulaca oleracea -----	purslane
Potentilla -----	cinquefoil
Prunella vulgaris -----	selfheal
Ranunculus -----	buttercup
Raphanus raphanistrum -----	wild radish
Rosa -----	rose
Rudbeckia hirta -----	brown-eyed-Susan
Rumex -----	dock; sorrel
Salsola -----	Russian thistle
Sanguisorba -----	burnet
Saponaria officinalis -----	soapwort; bouncing Bet
Saponaria vaccaria -----	cow herb
Sherardia arvensis -----	field madder
Silene -----	catchfly
Solanum -----	nightshade
Sonchus -----	sow thistle
Spergula -----	spurry
Syntherisma (Digitaria) -----	crabgrass
Thlaspi arvense -----	Frenchweed
Tragopogon pratensis -----	goat's beard
Trifolium -----	clover
Except T. hybridum, T. incarnatum, T. pratense, and T. repens	
Valerianella -----	-----
Verbena -----	verbena
Vicia -----	vetch
Except V. sativa, V. villosa, and V. pannonica	

201.87 Noxious Weeds. Seeds of the following plants shall be considered noxious weed seeds when in imported seed:

<u>Lepidium draba</u>	
<u>Lepidium repens</u>	White top
<u>Hymenophyssa pubescens</u>	
<u>Cirsium arvense</u>	Canada thistle
<u>Cuscuta spp.</u>	Dodder
<u>Agropyron repens</u>	Quackgrass
<u>Sorghum halepense</u>	Johnson grass
<u>Colvolvulus arvensis</u> L.	Bindweed
<u>Centaurea picris</u>	Russian knapweed
<u>Sonchus arvensis</u>	Perennial sowthistle
<u>Euphorbia esula</u>	Leafy spurge

RULES OF PRACTICE

201.151 Institution of Proceedings. Any person having information of any violation of the Act or of any of the regulations promulgated thereunder may file with the Chief of the Agricultural Marketing Service an application requesting the Secretary to institute such proceedings as may be authorized under the Act. Such application shall be in writing, signed by or on behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the party complained of. If, after investigation of the matters complained of in the application or after investigation made on his own motion, the Secretary has reason to believe that any person has violated or is violating any of the provisions of the Act or the regulations made and promulgated thereunder, he shall institute such proceeding as may be authorized by the Act.

201.152 Status of Applicant. The person filing an application shall not be a party to any proceeding which may be instituted under the Act, unless he be permitted by the Secretary or by the examiner to intervene therein. The Chief of the Agricultural Marketing Service shall not be required to divulge the name of the applicant and such person will have no legal status in the proceeding which may be instituted, except where allowed to intervene or as such person may be called as a witness. At any time after the institution of the proceeding, and before it has been submitted to the Secretary for final consideration, the Secretary or the examiner may, upon petition in writing and upon good cause shown, permit any person to intervene.

201.153 Docket Number. Each proceeding instituted under the Act shall be assigned a docket or file number and thereafter the proceeding shall be referred to by such number.

201.154 Cease and Desist Proceedings.

(a) Complaint and notice of hearing. If, upon investigation, made either on his own motion or upon application, the Secretary shall have reason to believe that any person has violated or is violating any of the provisions of the Act or of any of the regulations promulgated thereunder, he shall cause a complaint in writing to be served upon such person, as the respondent. The complaint shall state the charges and shall require the respondent to attend and testify at a hearing at a time and place designated in the complaint, the designated time being at least 30 days after date of the service of the complaint. At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, on the request of the respondent, be adjourned for a period not exceeding 15 days.

(b) Answer. In case of a desire to contest the proceeding, the respondent shall, within 20 days from the service of the complaint, file with the Hearing Clerk an answer to the complaint, in triplicate, signed by the respondent or his attorney. Such answer shall contain a concise statement of the facts which constitute the ground of defense. The respondent shall specifically admit or explain each of the facts alleged in the complaint unless respondent is without knowledge, in which case, respondent shall so state. Failure of the respondent to file an answer within the time above provided, and failure to appear at the time and place fixed for hearing, shall be deemed to authorize the Secretary, without further notice to respondent, to proceed in the regular course on the charges set forth in the complaint.

If the respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Secretary, without further evidence, or other intervening procedure, to find such facts to be true, and, if in the judgment of the Secretary such admitted facts constitute a violation of law as charged in the complaint, to make and serve upon the said respondent findings as to the facts and an order to cease and desist from continuing such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Secretary, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

(c) Conduct of hearing. The Secretary shall designate an employee of the Department of Agriculture to act as examiner to conduct the hearing, and such examiner shall have and may exercise all authority granted under Section 413 of the Act. In the conduct of the hearing, the examiner may rule upon any motion filed, or may reserve the matter for the subsequent ruling of the Secretary. He may rule upon the admissibility of evidence, but he shall admit all relevant and material evidence. The respondent or respondents may appear in person or by counsel and the Department shall be represented by an attorney designated by the Solicitor of the Department. The persons who appear as counsel at the hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States.

The burden of proof shall be upon the Secretary, as the moving party in the proceeding, and the proof offered by the Department shall be first presented.

The testimony of the witnesses at the hearing shall be upon oath or affirmation administered by the examiner. Any witness may, in the discretion of the examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The right of cross-examination shall obtain.

If a party objects to the admission of any evidence, or to the rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds of such objection, and the transcript shall not include argument or debate thereon except as ordered by the examiner. Such objections shall be made before the examiner in order to be subsequently relied upon in the proceeding. Ruling by the examiner on such objections shall be a part of the transcript.

A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of his official duty, and relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

The deposition of any witness, taken after reasonable notice to the opposite party or parties and at a time and place and before a person designated for the purpose by the Secretary, or by the examiner, shall be admitted, if the evidence is otherwise admissible.

When practicable to do so, a copy of each exhibit shall be furnished to the opposing party or parties either before or at the time of its introduction.

Judicial notice, on request, will be taken of such matters as are noticed by the courts of the United States.

(d) Proposed findings of fact, conclusions, and order. Within 10 days (unless a longer period of time shall be permitted by the examiner) after the filing of the transcript with the Hearing Clerk, as provided in paragraph (e) below, any party (including the Department) may file with the Hearing Clerk proposed findings of fact, conclusions, and order, based solely on the evidence at the hearing, and briefs in support thereof.

(e) Filing the transcript of evidence. The examiner shall, as soon as practicable after the close of a hearing, notify the Hearing Clerk of its close and of the time for filing proposed findings of fact, conclusions, and order, and furnish the Hearing Clerk with such other information as may be necessary. As soon as practicable after the close of the hearing, the examiner shall transmit to the Hearing Clerk an original and two copies of the transcript of the testimony and the original and all copies of exhibits introduced in evidence at the hearing. He shall attach to the original transcript of the evidence a certificate stating that the transcript is a true transcript of the testimony offered or received at the hearing, except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits introduced at the hearing, with such exceptions as he shall specify. A copy of

such certificate shall be attached to each of the two copies of the transcript of evidence. In accordance with such certificate, the Hearing Clerk shall note upon the original and each copy of the transcript each correction detailed therein by adding or crossing out at the appropriate place any words necessary to make the text conform to the correct meaning.

(f) Copies of the transcript of the testimony, et cetera. Any party to the proceeding desiring a copy of the transcript of the testimony or any written exhibit, or proposed findings of fact, or brief, shall be entitled to the same upon application to the Hearing Clerk and upon payment of fees therefor, as provided by Regulation 1532 of the General Regulations, United States Department of Agriculture.

(g) Examiner's report. The examiner, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact and briefs in support thereof, shall prepare, upon the basis of the evidence received at the hearing, a report containing his tentative findings of fact, conclusions, and order, a copy of which shall be served by the Hearing Clerk upon each of the parties, including the Department.

(h) Exceptions. Within 20 days after service of the examiner's report (unless the time is extended by the examiner), any party who wishes to take exception to any matter set out in such report shall transmit such exceptions in writing to the Hearing Clerk, referring to the relevant pages of the transcript, and suggesting a corrected finding of fact. Within the same period of time, each party shall transmit in writing to the Hearing Clerk a brief statement concerning each of the objections taken to the action of the presiding officer at the hearing, as set out in subsection (c) above, upon which he wishes to rely, referring, where relevant, to the pages of the transcript of evidence. A party, if he files exceptions, shall state in writing whether he desires to make an oral argument thereon before the Secretary.

(i) Transmittal of record. The examiner, immediately following the termination of the period allowed for the filing of exceptions, shall transmit to the Secretary the record of the proceedings. Such record shall include: the pleadings; the transcript of the evidence taken at the hearing; such proposed findings of fact, conclusions, and order, and briefs in support thereof, as may have been filed in connection with the hearing; the examiner's report; and the exceptions filed, if any.

(j) Oral argument. In the event that an oral argument before the Secretary has been duly requested, a date for such argument shall be fixed by the Secretary or by the Under Secretary or the Assistant Secretary, if designated by the Secretary to act in his stead.

(k) Issuance of final order. The Secretary, within a reasonable time after the receipt of the record from the examiner, as provided above, or, in case oral argument was had, within a reasonable time thereafter, will, upon the basis of the record and after due consideration of the same by him, make a report in writing of his findings as to the facts, and he may issue and cause to be served on each of the parties to the proceeding his final order in the proceeding. If oral argument is heard in any proceeding by the Under Secretary or the Assistant Secretary instead of the Secretary, the final order in the proceeding shall be issued by the person who heard the argument and considered the record in connection therewith.

(l) Rehearing. An application for rehearing, reargument, reconsideration, or modification of a final order must be made by petition to the Secretary filed in triplicate with the Hearing Clerk. The petition must state specifically the grounds relied upon. A copy of any such application filed by a respondent shall be transmitted by the Hearing Clerk to each of the other parties to the proceeding. The Secretary may, after giving reasonable notice and after allowing a reasonable opportunity to be heard to all parties, amend or set aside his report or order, in whole or in part, provided however, that the Secretary may take no action to amend or set aside the said report or order after the transcript of the record has been filed in a "circuit court of appeals" in accordance with Section 410 of the Act.

In the event that a rehearing is granted by the Secretary, or a hearing is ordered upon a petition for the modification of a final order, the applicable rules of practice, as set out herein, shall be followed.

(m) Service - Filing - Docketing. All pleadings, proposed findings, reports, exceptions, briefs, or other documents or papers required or authorized by these rules or by the Act to be served on any party to a proceeding under this section shall be served by the Hearing Clerk or by anyone also duly authorized by the Secretary. Said service, if otherwise required, may be dispensed with when the person to be served has made and filed with the Hearing Clerk a written waiver of such service, which said waiver shall be signed by the person to be charged therewith or by some person thereunto lawfully authorized, and it shall be duly acknowledged before a person authorized by law to administer oaths. The service shall be made either (1) by delivering a copy of the document or paper to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or any director of the corporation to be served; or (2) by leaving a true copy of the document or paper at the principal office or place of business of such person, partnership, or corporation; or (3) by registering and mailing a true copy of the document or paper, addressed to such person, partnership, or corporation at his or its last known principal office or place of business. Proof of service hereunder shall be made by the affidavit of the person who actually made the service, provided that, if the service be made by registered mail, as outlined in (3) above, proof of service shall be made by the return post-office receipt.

The affidavit and post-office receipt contemplated hereby shall be filed with the Hearing Clerk, and the fact of filing thereof shall be noted on the docket of the proceeding.

All pleadings, proposed findings, reports, exceptions, briefs, affidavits showing service, and other papers or documents required or authorized by these rules or by this Act to be filed with the Secretary or with the Chief of the Agricultural Marketing Service in any proceeding within the coverage of this section of the rules of practice shall be filed with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

The Hearing Clerk shall maintain a docket of and shall assign a number to each proceeding instituted under this section, and, thereafter, the proceeding shall be referred to by such number.

201.155 Proceedings prior to reporting for criminal prosecution.
The Chief of the Agricultural Marketing Service shall, before any violation of this Act is reported by the Secretary to any United States attorney for institution of a criminal proceeding, notify the person against whom such proceeding is contemplated that action is contemplated, inform him regarding the facts involved, and afford him an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

Notice shall be served upon such person in the manner outlined in section 201.154(m) above.

If the person desires to explain the transaction or otherwise to present his views, he shall file with the Chief of the Agricultural Marketing Service, within 20 days after the service of the notice, an answer, in duplicate, signed by him or by his attorney, or shall request, within the 20 days, an opportunity to express his views orally. The request shall be embodied in a writing signed by the person or by his attorney or agent. Such opportunity to present his views orally shall be afforded at a time and place to be designated by the Chief of the Agricultural Marketing Service, and it shall be given within a time not to exceed 10 days after the date of the filing of the request therefor.

PROCEDURE AS TO HEARINGS, PUBLICATION, ETC.

201.156 Notice and hearing prior to promulgation of rules and regulations. Prior to the promulgation of any rule or regulation contemplated by Section 402 of the Act, notice shall be given by publication in the Federal Register of intention to promulgate such rule or regulation and of the time and place of a public hearing to be held with reference thereto. Such hearing shall be conducted by the Secretary of Agriculture or, where the rule or regulation to be promulgated relates to Title III of the Act, by the Secretary of the Treasury and the Secretary of Agriculture, acting jointly or severally, or by such employee or employees of the Department of Agriculture or of the Departments of the Treasury and Agriculture, as the case may be, as may be designated to preside thereat. The presiding officer shall conduct the hearing in an orderly and informal manner, according to such procedure as he may announce at the commencement of the hearing. Any rule or regulation promulgated under Section 402 of the Act shall become effective on the date fixed in the promulgation, which date shall be not less than 30 days after publication in the Federal Register. Any rule or regulation may be amended or revoked in the same manner as is provided for its promulgation.

201.157 Publication of judgments and orders. After judgment by a court, or the issuance of a cease and desist order, in any case or proceeding arising under this Act, notice thereof shall be given by publication in Service and Regulatory Announcements of the Department, or by issuing a press release containing any information pertinent to the issuance of the judgment by the court or to the issuance of the cease and desist order, or by such other media as the Chief of the Agricultural Marketing Service may designate from time to time.

201.158 Proceedings under Section 302(a) to show cause why seed or screenings should be admitted into the United States. When seed or screenings have been refused admission into the United States under the Act or the joint regulations promulgated thereunder, the consignee of such seed or screenings may submit a request to the Chief of the Agricultural Marketing Service for a hearing in which he may show cause, if any he have, why such seed or screenings should be admitted. Request for such hearing shall be embodied in a writing signed by the owner or consignee or by his attorney or agent. The Chief of the Agricultural Marketing Service shall thereupon fix, and notify the owner or consignee of, the time when and place at which the hearing will be held. The hearing shall be conducted in an orderly and informal manner by the Secretary, or by a presiding officer duly designated by him, and it shall be governed by such rules of procedure as the presiding officer shall announce at the opening of the hearing. The determination as to whether the seed or screenings may be admitted into the United States shall be made by the Secretary within a reasonable time after the close of the hearing, and the consignee of the seed or screenings and the Secretary of the Treasury shall be duly notified as to such determination.

201.159 Proceeding under Section 305(b) to determine whether foreign alfalfa or red clover seed is not adapted for general agricultural use in the United States. The public hearings which shall be held from time to time for the purpose of determining whether seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States shall be conducted by the Secretary, or by a presiding officer duly designated by him. Such hearings shall be conducted in an orderly and informal manner in accordance with such procedure as the presiding officer shall announce at the opening of each hearing. The Secretary shall, within a reasonable time after the close of the public hearing, make and publish his determination as to whether the said seed is adapted for general agricultural use in the United States. Publication of the determination shall be made in the Federal Register, and through such other media as the Secretary may deem appropriate.

U. S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
WASHINGTON, D. C.

PROPOSED JOINT REGULATIONS OF THE SECRETARY OF THE TREASURY
AND THE SECRETARY OF AGRICULTURE FOR THE ADMINISTRATION OF TITLE III
OF THE FEDERAL SEED ACT, OF AUGUST 9, 1939.

THE JOINT REGULATIONS ISSUED UNDER THE SEED IMPORTATION ACT,
APPROVED AUGUST 24, 1912, AS AMENDED, WHICH WERE PROMULGATED ON
NOVEMBER 19, 1930 (S.R.A.- B.P.I. 17) AND LATER AMENDED ARE
REPEALED EFFECTIVE FEBRUARY 5, 1940.

October 1, 1939.

DEFINITIONS

Sec. 201.201 Agricultural Seeds. The term "Agricultural seeds" means those seeds so defined in the Regulations of the Secretary of Agriculture.

201.202 Vegetable Seeds. The term "Vegetable seeds" means those seeds so defined in the Regulations of the Secretary of Agriculture.

201.203 Screenings. The term "Screenings" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contains less than 25% of live agricultural or vegetable seeds.

201.204 Agricultural Marketing Service. The term "The Agricultural Marketing Service" means the Agricultural Marketing Service of the U. S. Department of Agriculture.

201.205 Collector of Customs. The term "Collector of Customs" means the Collector of Customs or any Deputy Collector of Customs of the U. S. Treasury Department, located at any port of entry into the United States.

201.206 Other definitions. The definitions for the purposes of Title III of the Federal Seed Act shall include all other definitions in the Regulations of the Secretary of Agriculture under the Act.

SAMPLING

201.207 Agricultural seed. The Collector of Customs shall draw and forward samples of all agricultural seed imported or offered for importation into the United States; except that wheat, flax, oats, rye, barley, cowpeas, beans, rice, buckwheat, and corn shall be sampled only when imported for seeding purposes, and when declared for seeding purposes.

201.208 Vegetable seed. The Collector of Customs shall draw and forward samples of all vegetable seed imported or offered for importation into the United States.

201.209 Screenings. The Collector of Customs shall upon request from the Chief of the Agricultural Marketing Service of the United States Department of Agriculture draw and forward samples of all screenings imported or offered for importation into the United States.

201.210 Method of sampling. (a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to reach all portions of the bag should be used.

(c) Non free-flowing seed, such as grass seed, uncleaned seed or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.

(d) The portions shall be combined into a composite sample or samples.

(e) As the seed or screenings are sampled, each portion shall be examined, and, whenever there is evidence of lack of uniformity, additional samples shall be taken to show such lack of uniformity.

201.211 Bulk. Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled.

201.212 Bags. (a) When an importation consists of five bags or less each bag shall be sampled.

(b) When an importation consists of more than five bags, every fifth bag but not less than five bags shall be sampled.

(c) When an importation consists of more than 100 bags, a separate composite sample shall be taken for each 100 bags or portion thereof.

201.213 Packets. In sampling seed in packets, entire unopened packets shall be taken.

201.214 Size of sample. Samples of vegetable seed shall be not less than one pint. Samples of agricultural seed shall be not less than one quart. Samples of screenings shall be not less than two quarts. Unused portions of samples of rare or expensive seeds may be returned upon request of the importer.

201.215 Forwarding samples. Before being forwarded for analysis, test, or examination, the container of samples shall be properly sealed and identified by the person drawing the samples in such manner as may be prescribed by the Chief of the Agricultural Marketing Service.

201.216 Marking of samples. All samples shall be accompanied by a statement containing the following information:

Enforcement of the Federal Seed Act

Port of entry..... Entry No.
Date of entry..... Invoice No.
Invoiced at.....
(screenings)
Kind of (seed).....
Consignor.....
Address of consignor.....
Entered by.....
Ultimate consignee.....
Address of consignee.....
Quantity of importation by weight.....
Total number of bags.....
Number of bags represented by sample.....
Price..... Value
Distinguishing mark.....
Steamer.....
Country of origin.....
Declared for.....

Seed or Processing

201.217 Forwarding samples. Unless otherwise requested by the Chief of the Agricultural Marketing Service, the samples from the various ports shall be forwarded to the seed laboratories as indicated below:

1. Seed laboratory, Agricultural Marketing Service, United States Department of Agriculture, Washington, D. C. -- All ports in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, and the ports of Chicago, Illinois, and Port Huron and Detroit, Michigan.
2. Cooperative seed testing laboratory, Agricultural Experiment Station, Lafayette, Indiana. -- All ports in the States of Indiana, Illinois (except the port of Chicago), Kentucky, Tennessee, Wisconsin, Minnesota, and Michigan (except Port Huron and Detroit).
3. Cooperative seed testing laboratory, College of Agriculture, Columbia, Missouri. -- All ports in the States of Iowa, Missouri, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Colorado, Texas, and New Mexico.
4. Cooperative seed testing laboratory, Agricultural Experiment Station, Corvallis, Oregon. -- All ports in the States of Montana, Wyoming, Idaho, Washington, and Oregon.

5. Cooperative seed testing laboratory, State Department of Agriculture, Sacramento, California. -- All ports in the States of California, Nevada, Utah, Arizona, and Territory of Hawaii.

201.218 Notice to consignee. The collector of customs shall immediately notify the owner or consignee that samples of seed or screenings have been drawn and that the shipment shall be held intact pending a decision of the Chief of the Agricultural Marketing Service in the matter.

201.219 Delivery in bond. After samples of seed or screenings offered for importation into the United States from any foreign country have been drawn, such seed or screenings shall be admitted into the commerce of the United States only after the seed or screenings have been found to meet the requirements of the Act and these regulations: Provided, however, That if each and every container of such seed or screenings bear a sufficient mark of identification, collectors of customs may release from customs custody for delivery to the owner or consignee shipments which have been sampled, pending examination and decision in the matter, upon the execution on the appropriate form of a customs single-entry bond in such amount as is prescribed for such bond in customs regulations in force on date of entry, which bond shall contain a condition for the redelivery of the seed or screenings or any part thereof upon demand of the collector of customs at any time. Prior to being so admitted, the seed or screenings shall be kept intact and not tampered with in any way, or removed from the containers except under supervision as provided by regulation. The bond shall be filed with the collector of customs, who, in case of default, shall take appropriate action to effect the collection of liquidated damages equal to the invoice value of the entire shipment, plus the estimated duty thereon, if any.

NOTICE OF REMOVAL FROM PORT OF ENTRY

201.220 Notice of removal. The importer shall notify the collector of customs at the port of entry and the Chief of the Agricultural Marketing Service whenever it is desired to move seed or screenings from one port to another port before being finally admitted. The movement of such seed or screenings shall be subject to the approval of the collector of customs and the Chief of the Agricultural Marketing Service.

EVIDENCE AS TO COUNTRY OR REGION WHERE SEED WAS GROWN

201.221 Certificate. (a) A certificate, attached to the invoice, of the properly authorized official of the foreign country in which the seed was grown, to the effect that the seed of alfalfa or red clover or any mixture of seeds containing 10 percent or more of either or both of such seeds was grown in that country, will be regarded as prima facie evidence of such fact. This certificate shall be in the following form:

Foreign Official Seed Certificate

City _____, country _____, date _____

I, _____, _____, hereby
(Name of official) (Official title)

certify that the seed contained in _____ bags, marked _____,
described in invoice _____, to which this certificate is attached,
(Number or date)

was grown in _____.
(Name of country or countries or part thereof)

(Name of official)

(Official title)

(b) A declaration of the shipper attached to the invoice stating the country in which the seed of alfalfa or the seed of red clover or any mixture of seeds containing 10 percent or more of either or both of such seeds was grown will be regarded as prima facie evidence of such fact. The declaration shall be in the following form:

Declaration of Shipper

City _____, country _____, date _____

I, the undersigned _____, the shipper of the seed
(Name)
contained in _____ bags, marked _____, described in invoice

_____, to which this declaration is attached, do hereby certify
(Number or date)
that such seed was grown in _____.
(Name of country or countries or part thereof)

(Signature)

(c) If the information contained in the certificate or declaration provided for in paragraphs (a) and (b) of this regulation is not sufficient to establish the country or region of origin of the seed, or if the consular invoice is not accompanied by such certificate or declaration, other evidence as to the origin may be considered, or the seed may be permitted entry after staining 10% red.

EXEMPTIONS AND DECLARATIONS

201.222 Shipments through United States. Seed shipped in bond through the United States is not subject to the import requirements of the Act.

201.223 Not for seeding purposes. (a) The seed of peas, sorghum, Proso, millet, and winter rape are exempted from the import provisions of the Act when imported for other than seeding purposes, provided that all importations of such seed shall be accompanied by a declaration by the importer setting forth the use for which imported.

(b) Importations of the seed of wheat, flax, oats, rye, barley, beans, cowpeas, rice, buckwheat, and corn are exempted from the import provisions of the Act when imported for other than seeding purposes, provided that all importations for seeding purposes shall be accompanied by a declaration by the importer stating "for seeding purposes".

SCREENINGS

201.224 Screenings prohibited entry. Screenings of all seeds subject to the Federal Seed Act are prohibited entry into the United States except as provided under Section 201.225.

201.225 Screenings permitted entry. Screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum including broom corn, flax, millet, proso, soybeans, cowpeas, field peas, and field beans may be imported, provided such screenings are not imported for seeding purposes and are so declared by the words "screenings, processing, not for seeding" in the invoice or other papers required to be presented to the collector of customs.

SEED ADULTERATED OR UNFIT FOR SEEDING PURPOSES

201.226 Cleaning or processing. Seed which is found under the provisions of the Act to be adulterated or unfit for seeding purposes may be cleaned or processed under the supervision of an employee or authorized agent of the U. S. Department of Agriculture. The cleaning or processing shall be at the expense of the importer who shall also reimburse the Government for the expenses of travel required to perform such supervision. The identity of the seed shall be maintained at all times to the satisfaction of the person supervising the cleaning or processing. The refuse from such cleaning shall be placed in containers and securely sealed and identified. If upon analysis test or examination of a representative sample of the cleaned seed, it is found that the requirements of the Act have been met, that portion of the seed may be admitted.

201.227 Destruction of refuse. The refuse from such cleaning shall be destroyed under the supervision of an employee or authorized agent of the U. S. Department of Agriculture.

201.228 Report to collector of customs. A report of the cleaning and processing and the destruction of the refuse, stating the amount by weight in each instance, shall be submitted to the collector of customs at the port of entry of such seed.

MISBRANDED SEED

201.229 Correction of labeling. Seed being imported or offered for importation, the labeling of which is false or misleading in any respect, shall be refused admission into the commerce of the United States until such labeling has been corrected.

MIXING SEED

201.230 Prohibition against; exception. Mixing any seed or screenings with a lot or shipment of seed or screenings offered for entry which has been found to be in violation of the Act or these regulations is prohibited, except that in cases where it shall appear to the satisfaction of the Chief of the Agricultural Marketing Service that two or more such lots or shipments of seed or screenings offered for entry are of substantially the same quality and origin, they may be mixed for the purpose of recleaning upon a written permit from the Chief of the Agricultural Marketing Service.

REJECTED SEED OR SCREENINGS

201.231 To be exported or destroyed. Seeds or screenings refused admission into the commerce of the United States shall be exported by the owner or consignee within 12 months of the date of notice of such refusal or at the expiration of such 12 months' period the rejected seeds or screenings shall be destroyed under the supervision of an employee or authorized agent of the U. S. Department of Agriculture in such manner as may be determined by the Chief of the Agricultural Marketing Service, who shall make a report of such destruction giving the amount by weight, to the collector of customs at the port of entry of such seed or screenings.

